

SENATE BILL No. 126

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-5-23; IC 34-11-2-13.

Synopsis: Freezing of credit reports. Provides that a consumer may prevent access to the consumer's credit report by requesting that the consumer reporting agency place a security freeze on the consumer's credit report. Imposes other requirements and restrictions. Provides that: (1) a consumer reporting agency may furnish a consumer's identifying information only to certain persons; and (2) a consumer may bring a civil action against a consumer reporting agency for injury caused to the consumer by the consumer reporting agency's violation of the law.

Effective: July 1, 2006.

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January 9, 2006, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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Introduced

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

SENATE BILL No. 126

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 24-5-23 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2006]:

4 **Chapter 23. Security Freeze for Credit Reports; Identifying**
5 **Information**

6 **Sec. 1. As used in this chapter, "consumer" means a person**
7 **whose credit information and history is recorded in a consumer**
8 **report.**

9 **Sec. 2. As used in this chapter, "consumer report" has the**
10 **meaning set forth in 15 U.S.C. 1681a.**

11 **Sec. 3. As used in this chapter, "consumer reporting agency"**
12 **means an entity that:**

13 (1) for a fee; or

14 (2) on a cooperative nonprofit basis;

15 **assembles or evaluates consumer credit information or other**
16 **information regarding a consumer for the purpose of furnishing a**
17 **consumer report to a third party.**



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1 **Sec. 4. As used in this chapter, "credit header information"**
 2 **means information collected or recorded by a consumer reporting**
 3 **agency concerning:**

- 4 (1) the Social Security number of a consumer; or
 5 (2) any other identifying information relating to a consumer
 6 that the consumer reporting agency obtained using any
 7 nonpublic personal information.

8 **The term does not include the name, address, or telephone number**
 9 **of a consumer if the information is listed in a residential telephone**
 10 **directory that is available to the public.**

11 **Sec. 5. As used in this chapter, "security freeze" means a**
 12 **designation placed on a consumer's consumer report:**

- 13 (1) by a consumer reporting agency; and
 14 (2) at the request of the consumer;

15 **that prohibits the consumer reporting agency from releasing the**
 16 **consumer report without the authorization of the consumer.**

17 **Sec. 6. A security freeze on a consumer's consumer report does**
 18 **not prohibit the consumer reporting agency from providing the**
 19 **consumer report to the following persons or entities without the**
 20 **authorization of the consumer:**

- 21 (1) A state or local unit of government.
 22 (2) A law enforcement agency.
 23 (3) A creditor of the consumer, including an assignee or a
 24 purchaser of the consumer's debt, for use in recovering the
 25 outstanding debt of the consumer.
 26 (4) The consumer.

27 **Sec. 7. (a) A consumer may place a security freeze on the**
 28 **consumer's consumer report by:**

- 29 (1) sending a written request by certified mail; or
 30 (2) making a request by telephone, if that method of request
 31 is available;

32 **to a consumer reporting agency.**

33 **(b) A consumer reporting agency that receives a request under**
 34 **subsection (a) shall place a security freeze on the consumer's**
 35 **consumer report not later than ten (10) business days after receipt**
 36 **of the request.**

37 **(c) A consumer reporting agency is not required to place a**
 38 **security freeze on a consumer report under this section if the**
 39 **consumer reporting agency determines that the request for a**
 40 **security freeze:**

- 41 (1) is incomplete;
 42 (2) is materially false; or

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(3) does not clearly identify the person making the request as the consumer.

(d) A consumer reporting agency may develop:

(1) forms to be used in submitting a written request for a security freeze; and

(2) a process by which a consumer may request a security freeze by telephone.

Sec. 8. If a security freeze has been placed on a consumer report, the consumer reporting agency may require a person or an entity described in section 6 of this chapter to provide information to the consumer reporting agency confirming the identity of the person or entity before releasing the consumer report to the person or entity.

Sec. 9. A consumer reporting agency that receives a truthful and complete request for a security freeze shall issue to the consumer requesting the security freeze:

(1) a unique personal identification number; and

(2) written information explaining how to:

(A) remove a security freeze; and

(B) allow access to a consumer report for a specified period;

not later than ten (10) business days after receipt of the request.

Sec. 10. (a) Except as provided in section 6 of this chapter, if a security freeze has been placed on a consumer's consumer report, the consumer reporting agency that placed the security freeze on the consumer report shall not release the consumer report unless the consumer reporting agency receives authorization from the consumer.

(b) For purposes of subsection (a), a consumer gives authorization to release the consumer's consumer report if the consumer provides the consumer's unique personal identification number to the consumer reporting agency:

(1) in conjunction with a request by the consumer to allow access to the consumer's consumer report for a specified period; and

(2) in the manner prescribed by the consumer reporting agency.

Sec. 11. (a) A third party that requests a consumer's consumer report in connection with an application by the consumer for credit shall treat the application for credit as incomplete if:

(1) a security freeze has been placed on the consumer report;

(2) the consumer has not allowed access to the consumer's

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consumer report for a specified period; and
 (3) the consumer reporting agency refuses to release the
 consumer report to the third party based on subdivisions (1)
 and (2).

(b) A consumer reporting agency that refuses under subsection
 (a)(3) to release a consumer report shall notify the third party that
 requested the consumer report of the existence of a security freeze
 as the basis for the refusal to release the consumer report to the
 third party.

(c) A consumer reporting agency shall not:

- (1) state; or
- (2) otherwise imply;

to a third party that the consumer's security freeze under this
 chapter reflects a negative credit score, history, report, or rating.

Sec. 12. (a) A security freeze remains in effect until the
 consumer who requested the security freeze requests, in a manner
 prescribed by the consumer reporting agency, that the security
 freeze be removed.

(b) Subject to subsection (c), a consumer reporting agency must
 remove a security freeze not later than three (3) business days after
 the consumer reporting agency receives a request under subsection
 (a).

(c) A consumer reporting agency is not required to remove a
 security freeze under this section if the consumer reporting agency
 determines that the request to remove the security freeze:

- (1) is incomplete;
- (2) is materially false; or
- (3) does not clearly identify the person making the request as
 the consumer.

Sec. 13. (a) Subject to subsection (d), a consumer reporting
 agency that placed a security freeze on a consumer's consumer
 report and issued a unique personal identification number to the
 consumer under this chapter shall issue a replacement unique
 personal identification number to the consumer if the consumer
 requests a replacement unique personal identification number.

(b) A request for a replacement unique personal identification
 number must be made in a manner prescribed by the consumer
 reporting agency.

(c) Subject to subsection (d), a consumer reporting agency shall
 issue a replacement unique personal identification number not
 later than seven (7) business days after the consumer reporting
 agency receives a request under subsection (b).

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(d) A consumer reporting agency is not required to issue a replacement unique personal identification number under this section if the consumer reporting agency determines that the request for the replacement unique personal identification number:

- (1) is incomplete;
- (2) is materially false; or
- (3) does not clearly identify the person making the request as the consumer.

Sec. 14. (a) A consumer reporting agency may remove a security freeze if the consumer reporting agency determines that the placement of the security freeze was based on a material misrepresentation of fact.

(b) A consumer reporting agency must provide written notice to a consumer before removing a security freeze from the consumer's consumer report under this section.

Sec. 15. (a) Except as provided in subsection (b), a consumer reporting agency may not impose a charge for:

- (1) placing or removing a security freeze on a consumer report under this chapter; or
- (2) allowing access to a consumer report under section 10 of this chapter.

(b) A consumer reporting agency may impose a charge of not more than ten dollars (\$10) to:

- (1) reissue a unique personal identification number when the consumer fails to retain the original unique personal identification number issued under section 9 of this chapter; or
- (2) issue a replacement unique personal identification number under section 13 under this chapter.

Sec. 16. (a) Except as provided in subsection (b), a consumer reporting agency shall not amend the following information in a consumer report if a security freeze is in effect on the consumer report:

- (1) The name of the consumer.
- (2) The date of birth of the consumer.
- (3) The Social Security number of the consumer.
- (4) The address of the consumer.

(b) A consumer reporting agency may amend the information described in subsection (a) despite a security freeze if the consumer reporting agency receives prior written approval from the consumer.

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1 Sec. 17. A consumer reporting agency shall provide to a
 2 consumer notice with each written disclosure by the consumer
 3 reporting agency as required under Section 609 of the federal Fair
 4 Credit Reporting Act (15 U.S.C. 1681g) that the consumer may
 5 place a security freeze on the consumer's consumer report. The
 6 notice under this section must be in substantially the following
 7 form:

8 "UNDER IC 24-5-23, YOU MAY OBTAIN A SECURITY
 9 FREEZE ON YOUR CREDIT REPORT AT NO CHARGE
 10 TO PROTECT YOUR PRIVACY AND ENSURE THAT
 11 CREDIT IS NOT GRANTED IN YOUR NAME WITHOUT
 12 YOUR KNOWLEDGE. THE SECURITY FREEZE WILL
 13 PROHIBIT A CONSUMER REPORTING AGENCY FROM
 14 RELEASING ANY INFORMATION IN YOUR CREDIT
 15 REPORT WITHOUT YOUR EXPRESS AUTHORIZATION
 16 OR APPROVAL. THE SECURITY FREEZE IS DESIGNED
 17 TO PREVENT CREDIT LOANS AND SERVICES FROM
 18 BEING APPROVED IN YOUR NAME WITHOUT YOUR
 19 CONSENT. WHEN YOU PLACE A SECURITY FREEZE
 20 ON YOUR CREDIT REPORT, WITHIN TEN (10)
 21 BUSINESS DAYS YOU WILL BE PROVIDED A
 22 PERSONAL IDENTIFICATION NUMBER TO USE IF YOU
 23 CHOOSE TO REMOVE THE SECURITY FREEZE OR TO
 24 TEMPORARILY AUTHORIZE THE RELEASE OF YOUR
 25 CREDIT REPORT FOR A PERIOD OF TIME AFTER THE
 26 SECURITY FREEZE IS IN PLACE. A SECURITY FREEZE
 27 DOES NOT APPLY TO PERSONS OR ENTITIES LISTED
 28 IN IC 24-5-23-6. IF YOU ARE ACTIVELY SEEKING
 29 CREDIT, YOU SHOULD UNDERSTAND THAT THE
 30 PROCEDURES INVOLVED IN LIFTING A SECURITY
 31 FREEZE MAY SLOW YOUR OWN APPLICATIONS FOR
 32 CREDIT. YOU HAVE A RIGHT TO BRING A CIVIL
 33 ACTION AGAINST SOMEONE WHO VIOLATES YOUR
 34 RIGHTS UNDER IC 24-5-23."

35 Sec. 18. A consumer reporting agency may furnish a consumer's
 36 credit header information only to a person who has a permissible
 37 purpose to obtain the consumer's consumer report under Section
 38 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b).

39 Sec. 19. (a) A consumer who suffers injury by an act of a
 40 consumer reporting agency that violates this chapter may bring a
 41 civil action against the consumer reporting agency in a circuit or
 42 superior court in the county in which the consumer resides.

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1 (b) A civil action brought under this section must be commenced
2 in accordance with IC 34-11-2-13.

3 (c) A court may award damages, fees, costs, and reasonable
4 attorney's fees in a civil action brought under this section.

5 SECTION 2. IC 34-11-2-13 IS ADDED TO THE INDIANA CODE
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2006]: Sec. 13. An action against a consumer reporting agency by
8 a consumer under IC 24-5-23-19 (governing consumer credit
9 reports) must be commenced not later than two (2) years after the
10 date of the alleged violation of IC 24-5-23.

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